

REMARKS

This is a response to Office Action dated March 30, 2004. Claims 5-27 are pending in the present application. Claims 1-4 have been canceled. New claims 5-27 have been added. The new claims do not introduce new matter and are entirely supported by the specification and the canceled claims. Individual issues raised by the Examiner will be addressed next in order in which they appear in the Office Action.

Specification

In paragraph 2 of the Office Action, abstract of the disclosure was objected to because it exceeded 150 words in length. In response, applicants submit herewith a replacement abstract that is believed to conform with the MPEP § 608.01(b) requirements.

Claim Objections

In paragraphs 3-4 of the Office Action, claim 2 was objected to because of a typographical error. Applicants respectfully submit that the objection of claim 2 is moot, because this claim has been canceled by the present amendment.

Claim Rejections Under 35 U.S.C. § 102(b)

In paragraphs 5-6 of the Office Action, claims 1 and 3-4 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,823,948 to Ross, Jr. (the '948 patent). In addition, in paragraph 7 of the Office Action, claims 1 and 3 were further rejected under 35 U.S.C. 102(b) as being anticipated by abaton.com website.

Applicants canceled claims 1-4 and add new claims 5-27. Applicants respectfully submit that claims 5-27 are patentable over the '948 and the abaton.com website. In particular, all new claims are patentable at least because the cited references fail to disclose a method and system for processing laboratory requisitions between remote healthcare applications and remote laboratories, as recited in claims 5, 11, 17 and 23.

In particular, the '948 patent is directed to the medical records, documentation, tracking and order entry system, known as TeleMed. (See, e.g., col. 4, ll. 52-68; and Fig. 1). The system is primarily used in a hospital environment to facilitate interdepartmental data communications. Figure 1 of the '948 patent shows that the TeleMed system comprises a master server 2 interconnecting plurality of hospital departments 21. Notably, the master server 2 and the intradepartmental networks, which are formed of local department hubs 7 and station terminals 9, comprise a local area network. To that end, the '948 patent teaches that "uninterrupted power supply 20 supplies power to all the local systems. Other

departments 21 are connected to the master server 2 to receive data from other departments and to send data to the other departments” (emphasis added). (*See*, col. 5, lines 21-24).

With respect to laboratory requisition processing, the '948 patent teaches that all laboratory requisitions are processed by the system locally within one of the hospital departments: “[t]he ordering section contains a comprehensive selection of labs, radiology procedures and other tests to be ordered and tracked. A user can automatically generate orders within the appropriate hospital department and provide the ward clerk with a record of the order” (emphasis added). (*See*, e.g., col. 14, ll. 18-22; col. 10, ll. 10-14 and ll. 30-34). Although the '948 patent describes at col. 5, lines 25-32 that TeleMed system supports remote data communications using modem 24 and ISDN data network 25, the description of such remote communications is limited to transfer of dictated and transcribed texts between the hospital departments and transcribers 5. (*See*, e.g., col. 5, ll. 1-10; and col. 15, ll. 4-8). The TeleMed system, however, does not support laboratory requisition processing between remote healthcare applications and remote laboratories.

In contrast, the method and system of the present application facilitate laboratory requisition processing between remote healthcare applications and remote laboratories. To that end, an intermediary server is provided having interfaces accessible to remote healthcare applications (that may be located at doctors’ offices) and to remote laboratories for sending and receiving laboratory requisitions and laboratory test results. (*See*, e.g., Specification at p. 9, ll. 6-10 and 19-20; p. 12, ll. 3-7; and Figs. 3 and 4). This functionality is recited in the new independent claims 5, 11, 17 and 23 of the present application. Since the '948 patent does not disclose, teach or even suggest a method and system for laboratory requisition processing between remote healthcare applications and remote laboratories, independent claims 5, 11, 17 and 23, as well as claims dependent thereon, are patentable over the '948 patent.

Similarly, the abaton.com website does not teach the aforementioned limitations of independent claims 5, 11, 17 and 23. In particular, the abaton.com website discloses a Physician Online Laboratory Reporter (POLaR™) system for laboratory order entry and automated results processing. The system allows physicians to electronically order tests, verify laboratory benefits eligibility, and receive the results of those tests. (*See*, e.g., Abaton.com Products & Services, p. 3). The abaton.com reference, however, does not disclose, teach or even suggest an intermediary server having interfaces accessible to remote healthcare applications and remote laboratories for sending and receiving laboratory requisitions and laboratory test results. To the best of the applicants’ understanding, POLaR

is merely a software application suite that resides on local computer systems in the physicians' offices for automating various clinical transactions, but not an independent intermediary server, which is remote both from the physicians' offices and the laboratories, and which facilitates laboratory requisition processing between such remote healthcare applications and remote laboratories. Accordingly, independent claims 5, 11, 17 and 23, as well as claims dependent thereon, are patentable over the abaton.com reference.

Claim Rejections Under 35 U.S.C. § 103(a)

In paragraphs 8-9 of the Office Action, claim 2 was rejected under 35 U.S.C. 103(a) as being obvious over the '948 patent in view of U.S. Patent No. 6,216,112 to Fuller (the '112 patent).

Applicants respectfully submit that rejection is moot because claim 2 has been canceled. New claims 5-27, however, are patentable over the '112 patent at least because the cited reference fails to disclose a method and system for processing laboratory requisitions between remote healthcare applications and remote laboratories, as recited in claims 5, 11, 17 and 23. The '112 patent discloses a method and system for offering and distributing software incorporating advertisements. The reference was cited merely for the purpose of showing a "concept of storing data on a client system and transmitting the data to a server at a later time" (Office Action p. 4, ¶ 9). The '112 patent, however, does not disclose, teach or even suggest laboratory requisition processing between remote healthcare applications and remote laboratories, as recited in claims 5, 11, 17 and 23. Accordingly, independent claims 5, 11, 17 and 23, as well as claims dependent thereon, are patentable over the '112 patent.

Conclusion

On the basis of the above it is respectfully submitted that claims 5-27 of the present application are in a condition for allowance. A prompt action by the Examiner to this effect is respectfully requested. Should the Examiner have any questions or comments concerning this submission, or any aspect of the application, the Examiner is invited to call the undersigned at the phone number listed below.

Date: August 30, 2004

Respectfully submitted,


Ognian V. Shentov

38,051
(Reg. No.)

JONES DAY
222 East 41st Street
New York, New York 10017
(212) 326-3939